

Marshall County Fiscal Court
July 3, 2012

The Marshall County Fiscal Court met in regular session on Tuesday, July 3, 2012 in the Joe Williams Fiscal Courtroom, Marshall County Courthouse, Benton, Kentucky. All duly elected Commissioners: Bob Gold, Terry Anderson, and Misti Drew; Assistant County Attorney Jason Darnall and County Attorney Jeff Edwards were present. Mike Miller, County Judge/Executive presided.

I. GUESTS:

A. Bobby Gifford, Director of Water Vision 2020 submitted a drawdown request from KIA Fund B: #10-03 on WX21157046, in the amount of \$47,216.90 (CSS Pipe - \$1,586.90; Paul Could Engineering - \$680.00; & Straeffer Pumps - \$44,950.00). A motion was made by Com. Gold and seconded by Com. Anderson to approve the drawdown request as submitted. All voted aye. Motion carried.

B. Sheriff Byars had two items:

- By law, he is required to go to every precinct and post the Executive Order in at least five places prior to a special election as well as publishing in the paper of record. He submitted a report of publishing and posting for the special election.
- The Sheriff's office was notified on June 25th it was one of three in the entire state that had been accepted for the C.O.P.S. Hiring Grant. He will be able to retain an officer and over the three-year grant period, grant funds will be received in the amount of \$171,550 and will require a \$45,000 match over that period.

II. CORRESPONDENCE:

A. Judge Miller read a letter and agreement regarding donated space for offices in the Courthouse for Kentucky Homeplace for July 1, 2012 to June 30, 2013. A motion was made by Com. Gold and seconded by Com. Drew to approve the agreement as presented. All voted aye. Motion carried. All voted aye. Motion carried.

B. County Attorney Jeff Edwards sent an email, which read, "I am writing to advise of a situation that has arisen and placed me in a situation that I have not been in since taking office May 12, 1997. The issues that have arisen relating to the Refuse District Board create a situation where I have a potential conflict of interest. My father currently sits on the Refuse District Board. It appears the acts of the Board over the past years are in question. Given my relationship, I must decline advising the Fiscal Court on these issues any further. My suggestion would be to obtain counsel for this limited issue as soon as possible."

C. Ran Guennel sent an email thanking Judge Miller and the members of the Fiscal Court and the road department for their efforts in making Moors Camp Hwy.

much safer for motorists, both local and out of state by increasing signage.

III. OLD BUSINESS:

A. A motion was made by Com. Anderson and seconded by Com. Drew to approve the minutes of the June 25, 2012 meeting. Judge Miller requested a correction regarding the vote on Charlie Edwards' appointment to the Refuse Board. He said he apparently nodded his head and did not verbally vote aye when the vote was taken and his vote was not recorded. He wants the record to reflect that he voted in favor of Mr. Edwards' reappointment. Com. Drew asked Com. Anderson when he made the motion to table regarding the Refuse Board appointments, if he meant just Danny Newton's or both. After checking the minutes, the motion was to table the issue. Com. Anderson said he wasn't clear what the status was on the reappointment of Charlie Edwards (during the 6/25/12 meeting), so the statement, "table the issue" will reflect both appointments. With the correction of Judge Miller's vote being recorded as requested and clarification on Com. Anderson's motion, all voted aye. Motion carried.

B. Judge Miller informed that during the last meeting Kenneth Shadowen was appointed to the Marshall County Hospital Board. The terms have expired on the other four members and all are eligible and willing to serve if reappointed. The new terms will be as follows: Dr. Paul Schaper – term will expire 6/30/13 – will be eligible for another (final) term to expire 6/30/17; Dr. Wendy Gibson – term will expire 6/30/13 – will be eligible for another (final) term to expire 6/30/17; Ted Kinsey – (final) term will expire 6/30/16; & Glenn Nimmo – term will expire 6/30/14 – will not be eligible for another term. A motion was made by Com. Gold and seconded by Com. Anderson to approve the reappointments of the Hospital Board members. Motion carried. Com. Drew asked if someone was interested in serving on a board, how they would they express their interest – is there a file kept? Judge Miller replied that he would like to have the requests by letter and they are kept on file. All voted aye.

C. Jeff Edwards reported that he is still gathering information and working on specifications for removal of abandoned mobile homes.

D. The architect's bill for the roof at the Sheriff's Office/911/Jail complex was tabled during the last meeting. After checking, the bill is owed. There was another question regarding the amount due. Following discussion, the Treasurer will check during executive session and report back to the Court.

E. Judge Miller informed that the Marshall County Board of Health voted to pay the \$10,000 bill so that mobile dental clinic services will be provided to school children, some of whom may not receive any dental care if not for this service. Judge Miller

expressed appreciation to the Health Board for helping the Court by paying for the services.

III. NEW BUSINESS:

A. Judge Miller read a Memorandum of Agreement between the Department for Local Government and the Fiscal Court for an extension to the Marshall County Energy Savings Project. A motion was made by Com. Drew and seconded by Com. Gold to approve the MOA as presented. All voted aye. Motion carried.

B. Mike Alexander was re-elected as one of the landowner representatives on the Hardin-South Marshall Fire Protection District Board. A motion was made by Com. Gold and seconded by Com. Anderson to affirm the re-election of Mr. Alexander. All voted aye. Motion carried.

C. Sheriff Byars informed that he and the Emergency Management Director met prior to the meeting and spoke about some of the surrounding counties placing a total ban on any fireworks due to the drought conditions. There is no ban in Marshall County. The Sheriff urged anyone who was going to have fireworks to be extremely careful, to set the off on a paved or gravel parking lot. He added that if someone sets someone's property on fire, they will be liable.

D. Sandra Wright asked to address the Court. She said as a matter of record, she is a 30-year tax-paying resident of Calvert City and she would like to address the Court about the board appointments to the Refuse Department. She referred to the County Attorney's email about conflict of interest, and said she had a question. It was her understanding that the Refuse Board is responsible for the hiring and firing of employees. Judge Miller replied that was correct. Ms. Wright said she understood that Judge Miller actually has a son who is working for the Refuse Department. Judge Miller again replied that was correct. She said she would like for Judge Miller – not as a point of law because she is not an attorney – but as a matter of ethics and a matter of a conflict of interest or the appearance thereof, she asked him to recuse himself of any vote on that issue. Judge Miller replied that he has hired an attorney to look into the situation, not Jeff Edwards, but another attorney. Ms. Wright said she's not asking as a point of law – just the appearance of a conflict of interest. Judge Miller asked Ms. Wright to put her request in writing to have as a matter of record. Jeff Edwards said when the issue came up, he sent an email to the Court clarifying that the conflict was not between the Refuse Board and John Keith Miller (Judge Miller's son), and in his opinion it wouldn't bear any weight. Other than that, the Ethics Commission can address the issue of a possible conflict of interest. Com. Drew said her only concern, if we begin looking into what Com. Anderson recommended, which was an investigation,

it there is some bearing on the scrap metal – that was under the responsibility of the Recycling Department – was that not an issue? Mr. Edwards said that it is but at this point he feels whatever was done out there was under the direction of the Refuse Board and that may become an issue later. Com. Drew reminded Mr. Edwards that he recused himself in the North Marshall Water District issue, and she didn't know if it was the same thing. Mr. Edwards replied that it was similar, and he had compared those two situations and in his opinion that situation at that point was that the conflict was between the board and Mr. Anderson and not just between the Fiscal Court and the Board. He added that he didn't think it was necessarily an ethical conflict if there is someone that you as Commissioners appoint to a board and that board employs someone you are related to – he said he's not saying that a conflict will not arise, but he doesn't see that as an actual conflict at this time. Com. Drew said she thought the public conception could be that by the Court appointing a board who's then able to set a rate a pay for a family member – that could draw some criticism because the board members get \$500 for serving on the board, so you're putting someone in the position who earns a pretty good rate of pay – who then sets a rate of pay for a family member. Judge Miller said we'll certainly have the Ethics Board look into this which he had no problem with.

E. A motion was made by Com. Anderson and seconded by Com. Drew to go into executive session to discuss personnel. All voted aye. Motion carried.

F. Judge Miller called Court back into regular session and informed that the mowing contract was discussed. The current contract is not being filled according the Park Director Larry Whitt and in order to rectify this situation, Judge Miller said the contract needs to be voided for non-compliance. Because the cost for the rest of the mowing season should be under the bid limit, he recommended that the Court authorize Mr. Whitt to negotiate with the next lowest bidder. A motion was made by Com. Drew and seconded by Com. Anderson to authorize Mr. Whitt to do so. All voted aye. Motion carried.

G. Judge Miller informed that yesterday, 12 people were interviewed for two positions at the Animal Shelter. Those 12 were narrowed down to five for a second interview. One was interviewed prior to Court this morning and the other four will be interviewed later today. Jeff Edwards suggested that the meeting be recessed and reconvened after those interviews. Judge Miller said he will not be in this afternoon, but he would be comfortable with anyone of them. He suggested that former Director Lexie Lamb be asked if she would come in and help train the new people.

H. Judge Miller read the Animal Shelter report for June which is as follows: Animals in the pen as of 5/31/2012 – 90; brought in by Animal Wardens – 50; brought in by citizens – 107; total animals taken in – 157 (dogs – 39; cats – 9; puppies – 45; & kittens – 64); adopted – 152; animals in foster care – 2; reclaimed – 9; euthanized – 9; & animals in the pen as of 6/30/2012 – 83; donations - \$875.00.

I. Emily Martin presented the Treasurer's Report and informed that three accounts need to have all funds transferred from and the accounts closed. They are: Occupational Tax Fund to General Fund - \$5,379.50; Cherokee Park Fund to General Fund - \$3,287.74; & Wireless 911 Fund to 911 Fund - \$108,021.08. A motion was made by Com. Drew and seconded by Com. Anderson to approve the transfer of funds and officially close the accounts. A motion was made by Com. Gold and seconded by Com. Anderson to approve the Treasurer's Report, subject to audit. All voted aye. Motion carried.

J. Mrs. Martin presented the Treasurer's Quarterly Report. The total carryover of funds for the year is \$2,153,060.70. A motion was made by Com. Drew and seconded by Com. Gold to approve the Treasurer's Quarterly Report, subject to audit. All voted aye. Motion carried.

K. Mrs. Martin presented the Quarterly Encumbrance Listing for the quarter ending June 30, 2012. The total of the report - \$48,221.59. A motion was made by Com. Anderson and seconded by Com. Gold to approve the Encumbrance Report as presented. All voted aye. Motion carried.

L. Mrs. Martin presented the Intrafund Transfers which are as follows:

<u>From</u>	<u>To</u>	<u>Amount</u>
Occupational Tax Admin.	General Fund	\$700,000.00
Occupational Tax Admin.	911 Fund	<u>\$ 31,250.00</u>
	Total Approved	\$731,250.00

A motion was made by Com. Gold and seconded by Com. Anderson to approve the Intrafund Transfers as submitted. All voted aye. Motion carried.

L. Mrs. Martin presented the Appropriation Condition Report for FY ended 6/30/12 for the Court's information.

M. Mrs. Martin presented the County Paid Salary Schedule for the time period beginning July 1, 2012. A motion was made by Com. Anderson and seconded by Com. Gold to approve the schedule as presented. All voted aye. Motion carried.

N. Mrs. Martin distributed copies of the yearend cash balances which included a comparison of the past 11 years.

O. A motion was made by Com. Anderson and seconded by Com. Gold to approve payment of the bills. Mrs. Martin reported that there is one earmarked bill for the shelter for review and asked that it be held at this time. With the exception of the shelter bill, all voted aye. Motion carried.

P. Mrs. Martin reported that she looked at the Castleberry McGregor bill and it appears that by the contract, the percentage amount is based on the bid price. The bid was \$252,470.00 which placed the contract into the 12% category, so our total fee will be \$37,870.00. To date, \$30,526.40 has been paid to Castleberry McGregor. There are two bills – one for \$4,754.00 for construction that was due June 14th and the final bill to finish out the construction is \$2,820.00. A motion was made by Com. Anderson and seconded by Com. Drew to approve payment of the bill which was held as well as the current bill. All voted aye. Motion carried.

Q. Due to a schedule conflict, the next meeting date was changed to July 24th at 9:30.

R. A motion was made by Com. Anderson and seconded by Com. Gold to recess Court until 11:30. All voted aye. Motion carried.

S. In the absence of Judge Miller, Com. Gold called Court back into regular session at 11:30 a.m..

T. A motion was made by Com. Drew and seconded by Com. Gold to go into executive session to conduct interviews with the Animal Shelter Committee for two positions at the Animal Shelter. All voted aye. Motion carried.

U. Com. Gold called Court back into regular session and informed that interviews have been completed with the applicants for the positions of Director and Assistant Director.

V. County Attorney Jeff Edwards informed that after two rounds of interviews, the Committee recommended that Amanda Hudson be hired as Director and Erin Seig be hired as Assistant Director. A motion was made by Com. Drew and seconded by Com. Anderson to accept the recommendation of the Committee. All voted aye. Motion carried.

Marshall County Fiscal Court
July 3, 2012
Page seven

W. A motion was made by Com. Anderson and seconded by Com. Drew to adjourn. All voted aye. Motion carried.

Respectfully submitted by:

Melonie Chambers, Fiscal Court Clerk